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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte DANIEL R. SCHNEIDEWEND and AARON H. DINWIDDIE

Appeal 2010-012490
Application 09/190,309
Technology Center 2400

Before JOHN A. JEFFERY, CARLA M. KRIVAK,
and ELENI MANTIS MERCADER, *Administrative Patent Judges*.

MANTIS MERCADER, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Appellants seek our review under 35 U.S.C. § 134 of the Examiner's rejection of claims 1-19. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

INVENTION

Appellants' claimed invention is directed to a system for initiating scheduled program processing functions such as program recording by deriving a time clock based on a current time reference indication produced by a particular broadcast source (Spec. 2:33-36).

Claim 1, reproduced below, is representative of the subject matter on appeal:

1. A system comprising:

a processor for providing an electronic program guide (EPG), the EPG operable by a user (1) to select a first program and a second program received from corresponding programs sources and (2) to select a first program processing function for the first program and (3) to select a second program processing function for the second program;

a tuner operable by the processor to receive (1) for the first program, first current time reference information from a first corresponding program source, wherein the first current time reference information provides information for synchronizing a scheduling clock with a clock of the first corresponding program source, and (2) for the second program, second current time reference information from a second corresponding program source, wherein the second current time reference information provides information for synchronizing a scheduling clock with a clock of the second corresponding program source;

the processor programmed to synchronize the current time of day of a first scheduling clock with the current time of day of the clock of the first corresponding program source based on the first current time reference information;

the processor programmed to initiate the first program processing function based upon the first scheduling clock;

the processor programmed to initiate the second program processing function based upon a second scheduling clock; and

the processor programmed to ensure that the second scheduling clock is synchronized with the current time of day of the clock of the second corresponding program source during initiation of the second program processing function by synchronizing the current time of day of the second scheduling clock with the current time of day of the clock of the second corresponding program source based on the second current time reference information prior to initiation of the second program processing function.

THE REJECTIONS

The Examiner relies upon the following as evidence of unpatentability:

Young	US 5,479,268	Dec. 26, 1995
Landis	US 5,561,461	Oct. 1, 1996
Roop	US 5,619,274	Apr. 8, 1997
Schein	US 5,801,787	Sep. 1, 1998
Usui	US 5,808,694	Sep. 15, 1998
Marsh	US 6,208,799 B1	Mar. 27, 2001

ADVANCED TELEVISION SYSTEMS COMMITTEE, PROGRAM AND SYSTEM INFORMATION PROTOCOL FOR TERRESTRIAL BROADCAST AND CABLE (Dec. 23, 1997) [hereinafter ATSC].

The following rejections are before us for review:

1. Claims 1, 2, 4-6, 10, 11, and 13-17 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Young.

2. Claims 1 and 16 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Marsh in view of Schein.

3. Claims 3 and 18 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Young in view of Roop.

4. Claim 7 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Young in view of ATSC and Landis.

5. Claim 12 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Young in view of ATSC.

6. Claims 8, 9, and 19 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Young in view of Usui.

ISSUES

There are two issues before us:

1. The first issue is whether Appellants have shown that the Examiner erred in finding that Young teaches the limitation of "synchronizing . . . [a] scheduling clock with . . . [a] clock of the second corresponding program source . . . prior to initiation of the second program processing function" as recited in representative claim 1.
2. The second issue is whether Appellants have shown that the Examiner erred in finding that the combination of Young in view of Roop teaches the limitation of "inhibit[ing]" or "smooth[ing]" a discontinuous change as recited in claims 3 and 18, respectively.

PRINCIPLES OF LAW

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior

art reference." *Verdegaal Bros., Inc., v. Union Oil Co. of Cal.*, 814 F.2d 628, 631 (Fed. Cir. 1987).

During examination of a patent application, a claim is given its broadest reasonable construction "'in light of the specification as it would be interpreted by one of ordinary skill in the art.'" *In re Am. Acad. of Sci. Tech Ctr.*, 367 F.3d 1359, 1364 (Fed. Cir. 2004) (citation omitted). "[T]he words of a claim 'are generally given their ordinary and customary meaning.'" *Phillips v. AWH Corp.*, 415 F.3d 1303, 1312 (Fed. Cir. 2005) (citation omitted).

> The claims, of course, do not stand alone. Rather, they are part of "a fully integrated written instrument" consisting principally of a specification that concludes with the claims. For that reason, claims "must be read in view of the specification, of which they are a part." . . . [T]he specification "is always highly relevant to the claim construction analysis. Usually, it is dispositive; it is the single best guide to the meaning of a disputed term."

Id. at 1315 (citations omitted).

ANALYSIS

Regarding claims 1, 2, 4-6, 10, 11, and 13-17

Appellants argue that Young does not teach the limitation of "synchronizing . . . [a] scheduling clock with . . . [a] clock of the second corresponding program source . . . prior to initiation of the second program processing function" as recited in representative claim 1 (App. Br. 18).[1] Appellants explain (App. Br. 17) that "synchronize," based on its customary

[1] Appellants argue independent claims 1 and 16 together (App. Br. 15-18). We, accordingly, select claim 1 as representative. *See* 37 C.F.R. § 37.41(c)(1)(vii).

meaning, is defined as "'to cause to indicate the same time.'" Appellants point to Young (col. 13, ll. 17-22) to support the Examiner's reliance on this section is misdirected as it does not address synchronization, but rather matching the stored time of the program guide with the time of the broadcast program to record the requested program (Reply Br. 7). Appellants assert that this matching does not match any particular time reference to a "program source" (Reply Br. 7).

We note that our reviewing Court determined that the Specification is the single best guide to the meaning of a disputed term. *See Phillips*, 415 F.3d at 1315. Appellants' own Specification states that "the time clock data used to derive the scheduling clock is synchronized with the time clock transmitted by the broadcast source in broadcasting the desired program" (Spec. 11:38-41) which permits the scheduling clock to be corrected to the time of the broadcasting program source of the desired program (Spec. 10:13-15). The stored scheduled clock time derived from program guide information (Spec. 9:27-35) is updated with the corrected time of the broadcasting source to avoid errors in viewing or recording the program of interest (Spec. 8:26-40). In other words, Appellants' *synchronization* pertains to updating the stored time value of an anticipated program of interest with the update time from the source.

Young teaches that other information is transmitted to the schedule/tape controller 180 and stored in the system RAM memory 240, which includes *schedule update time* and *last minute schedule change data* (Ans. 7, 19; Young col. 13, ll. 3-8). Thus, Young teaches that the updated schedule information or last minute schedule change data provides information for properly synchronizing the scheduling clock (Ans. 7, 19;

Young col. 13, ll. 17-20 (system clock 230)) with a clock corresponding to the corresponding program source (col. 13, ll. 3-8, 14-17 (transmitted schedule update information)). Thus, the Examiner correctly interpreted the claimed term "synchronizing," consistent with the meaning provided by Appellants' own Specification.

Furthermore, we agree with the Examiner's reasoning (Ans. 7) that the update of the schedule information (i.e., synchronization) will inherently happen "prior to initiation of the second program processing function," to accurately record the program of interest at the updated time. Otherwise, there would be no reason to transmit the update of the schedule information.

The Examiner further finds (Ans. 7), and we agree, that Young teaches multiple programs transmitted from multiple sources which can be scheduled for recordings (Fig. 4) and can be shifted in time due to updated schedule information (col. 13, ll. 3-8, 14-17). Thus, the Examiner correctly concludes (Ans. 7) that Young teaches first and second programs (Fig. 4 shows multiple programs) which can be scheduled for recording, and thus, two different clocks from two different sources would provide information for synchronizing a scheduling clock (col. 13, ll. 3-8, 14-17).

Accordingly, we will affirm the Examiner's rejection of representative claim 1 and for similar reasons the rejections of claims 2, 4-6, 10, 11, and 13-17. We will not reach the Examiner's rejection of claims 1 and 16 over Marsh in view of Schein since we are affirming the Examiner's alternative grounds of rejection as anticipated by Young.

Regarding claims 3 and 18

Appellants additionally argue that the Examiner incorrectly relied on Roop for teaching that changing the time for daylight savings is somehow preventing a time discontinuity as required by claims 3 and 18 (Ans. 7).

We are not persuaded by Appellants' argument. We agree with the Examiner's reasoning (Ans. 21-22) that Roop recognizes that a discontinuity would occur if daylight savings is not compensated in the subscriber units. Roop prevents this discontinuity by automatically changing the current time of subscriber units according to the corrected Daylight Savings times so that displays of schedule data for time periods containing these changes can show the correct adjusted local time and programs can be recorded at their proper times (cols. 39-40). The Examiner notes (Ans. 21-22), and we agree, that this is consistent with Appellants' Specification, which teaches correcting a time discontinuity by providing a daylight saving time indicator (Spec. 11).

Accordingly, we will affirm the Examiner's rejection of claims 3 and 18.

Regarding claims 7-9, 12, and 19

We will also affirm the Examiner's rejections of claims 7-9, 12, and 19 for the same reasons as stated *supra* because Appellants repeat the same arguments as above (App. Br. 30-44).

CONCLUSIONS

1. Appellants have not shown that the Examiner erred in finding that Young teaches the limitation of "synchronizing . . . [a] scheduling clock with . . . [a] clock of the second corresponding program

source . . . prior to initiation of the second program processing function" as recited in representative claim 1.

2. Appellants have not shown that the Examiner erred in finding that the combination of Young in view of Roop teaches the limitation of "inhibit[ing]" or "smooth[ing]" a discontinuous change as recited in claims 3 and 18, respectively.

DECISION

The decision of the Examiner to reject claims 1-19 is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED

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